SBCivil Writ Petition No.3572/2003

Dharmender Kumar
v.
State of Rajasthan & Ors.

Date of Order :: 13th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. I.R.Choudhary, for the petitioner.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

....

This petition for writ is preferred by the petitioner being dissatisfied by discontinuation of his service as Shiksha Sahyogi w.e.f. 8.7.2002.

In brief, facts of the case are that under Rajeev Gandhi Pathshala Scheme selections were conducted by Gram Panchayat Tilanes, Panchayat Samiti Degana, District Nagaur for the purpose of appointment of Shiksha Sahyogi at various Rajeev Gandhi Pathshalas within its jurisdiction. A select list was declared on 20.5.2001 by Gram Panchayat Tilanes wherein the petitioner stood at Sr.No.2 with merit marks of 52.04 out of the six selected incumbents. In pursuant to the selections referred above the petitioner was permitted to undertake required training and was posted as Shiksha Sahyogi at Rajeev Gandhi Pathshala, Godaron Ki Dhani, Gram Panchayat Tilanes. The school, where the petitioner was posted under an order dated 3.7.2002 passed by Collector, Nagaur, was closed, therefore,

the petitioner too was discontinued from services. The grievance of the petitioner is that there was no need to discontinue him from services on closure of school at Godaron Ki Dhani as he stood at Sr.No.2 in the select list prepared by Gram Panchayat for the purpose of appointment as Shiksha Sahyogi.

A reply to the writ petition is filed on behalf of the respondents stating therein that the petitioner was selected for appointment as Shiksha Sahyogi for Rajeev Gandhi Pathshala situated at village Godaron Ki Dhani and on its closure his services were rightly terminated by them.

Heard counsel for the parties.

From the select list prepared by Gram Panchayat Tilanes which is available on record as Anx.1 it does not reveal that the petitioner was selected to be appointed as Shiksha Sahyogi for Rajeev Gandhi Pathshala situated at Godaron Ki Dhani but it appears to be a select list for appointment of Para-Teachers (Shiksha Sahyogi) in the schools situated within the jurisdiction of Gram Panchayat Tilanes. There is no other document available on record on basis of that it can be said that the petitioner was selected to be appointed as Shiksha Sahyogi only at Godaron Ki Dhani. Whatever material available on record clearly shows that the petitioner

was selected for appointment as Shiksha Sahyogi in Rajeev Gandhi Pathshala situated within the jurisdiction of Gram Panchayat Tilanes. It is also the position admitted that in the select list containing the names of six persons, the petitioner stood at Sr.No.2 with merit marks of 52.04%. The four persons viz. Umashankar, Mahendra Singh, Anil Kumar and Ramswaroop who stand at lower pedestal in the select list secured only 46.46%, 43.49%, 39.85% and 43.74% respectively merit marks. I do not find any just and valid reason to discontinue the petitioner from service while retaining the persons who stood at lower pedestal than the petitioner in the select list. It shall be quite arbitrary to continue the persons having less merit while discontinuing the petitioner from services.

The act of the respondents, therefore, is certainly arbitrary and unjust. The same, therefore, is declared illegal. The respondents are directed to reinstate the petitioner as Shiksha Sahyogi and post him at any Rajeev Gandhi Pathshala within the jurisdiction of Gram Panchayat Tilanes. The period in which the petitioner remained out of employment shall be treated as part of continuous service, however, there is no need to make payment of wages for the period aforesaid to the petitioner as during this period he has not worked with the respondents.

The writ petition is allowed in the terms above.

(GOVIND MATHUR),J.

kkm/ps.